



03-26-07

ATF new

In the United States Patent and Trademark Office

Serial Number: 10/724,653

Application Filed: 2003 December 1

Applicant: Lyons, Michael L.

Application Title: Front Pocket Wallet Used to Prevent Spinal Misalignment

Examiner/GAU: Tri M. Mai/3727

Mailed: 2007 March 23

At: Gorham, Maine

AMENDED APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir,

Responsive to the Notification of Non-Compliant Appeal Brief mailed 2007 March 14, Applicant herewith submits an amendment to his Appeal Brief originally filed 2006 November 8.

Concerning the above Notification and this resulting amendment, the Applicant notes the following:

Regarding Amendment B: There is nothing of record declaring that Amendment B mailed 2006 September 5 has not been entered. To the contrary, the Final Office Action mailed 2006 June 6 raised objections to Claims 14-22, which objections were fully met in Amendment B by re-writing these nine claims into independent form as new Claims 26-34. These nine new claims are affirmed as allowable in the examiner's Advisory Action Before the Filing of an Appeal Brief mailed 2006 September 26.

Regarding Claims 23-25:

Claims 23-25, also submitted in Amendment B, are dependent upon — and thus further limitations upon — rejected Claim 12, which claim is the subject of this Appeal. 37 CFR §1.116(c) states that refusal to admit any amendment after a final rejection will not operate to relieve the application from its condition as subject to appeal.

In light of the above, the "Status of Claims" section of the Appeal (on Page 1) has been re-written to conform with the examiner's notes in the Notification of Non-Compliant Appeal Brief.

Regarding Check-Box 7:

The Claims Appendix to the Appeal Brief (one page, immediately following final Page 15) is correct. Only Claim 12 is the subject of Appeal, and Claim 12 is there represented in the Claims Appendix precisely as it was submitted in Amendment A mailed 2006 February 16, as corrected on 2006 March 10 to add the word "(new)" after the claim number, and as it stands today rejected in the Final Office Action mailed 2006 June 6.

Regarding the Evidence Appendix:

37 CFR §1.116(e) affirms that other evidence submitted on the same date as the filing of an Appeal may be admitted upon a showing of reasons why it is necessary and was not earlier presented. Each item of evidence with the Appeal was either previously submitted with Amendment A mailed 2006 February 16 or is redundant to such prior-admitted evidence. It is only included with the Appeal because it has become more recently available, and because the examiner and the applicant have discussed points which are on the record and subsequent to the Final Action, to which points the new evidence adds clarification. Each new exhibit is cited within the Appeal Brief regarding its reason for inclusion.

Exhibit VI, an example of the Applicant's invention, is the same as Exhibit I to Amendment A.

Exhibit VII, a photographic print of the Applicant's invention in Exhibit VI above, is submitted to clarify the lexicography that is used in the Application and which has resulted in misunderstandings between the examiner and the applicant.

Exhibit XII, a Point-of-Sale placard, is the same as Exhibit II to Amendment A.

Exhibit IX, an example of a recent promotional postcard for the Applicant's invention, is new and supplemental to Exhibit XII above.

Exhibit X, a Press Release dated November 2006, is also supplemental to Exhibit XII above.

Exhibit VIII, a printout from the Website <www.roguewallet.com> owned and recently posted by the Applicant, is likewise supplemental to Exhibit XII above.

Exhibit V, an example of a front trousers pocket, is the same as Exhibit III to Amendment A.

Exhibit XIII, a printout from the Website <www.all-ett.com>, is the same as Exhibit IV to Amendment A.

Exhibit XIV, a printout from the eBay Website, is the same as Exhibit V to Amendment A.

Exhibit I, a copy of a page from the Day-Timer catalog of September 2006, is newer evidence of the current state of the art and supplemental to Exhibits XIII and XIV above.

Exhibit II, a printout from the Website <www.ebags.com>, is likewise supplemental.

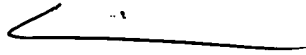
Exhibit XI, a printout of a recent Google search for the term "front pocket wallet" is likewise.

Exhibit III, a printout from the Website <www.frontpocketwallet.com>, is also likewise.

Exhibit IV: U.S. Patent 5,024,258 to Morehead is cited in Exhibit III above, and therefore included for consideration.

Amended Page 1 is forwarded herewith.

Very respectfully,




Nils Peter Mickelson
Registration Nr. 40,089
207-929-4840

Express Mail Label Nr. EQ750046738US

Date of Deposit 2007 March 23

I hereby certify that this paper or fee is being deposited with the United States Postal Service using "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to "Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450."

Signed: 

Nils Peter Mickelson
Registration Nr. 40,089



APPEAL BRIEF

in

**APPLICATION SER. NR. 10/724,653
FILED 2003 December 1**

(NOTICE OF APPEAL ENTERED 2006 September 11)

REAL PARTY IN INTEREST

The real and sole party in interest in this Appeal is the Applicant, Michael L. Lyons.

RELATED APPEALS AND INTERFERENCES

None

STATUS OF CLAIMS

Claims 1-11 are cancelled.

Claim 12 and 13 are rejected.

Objection has been raised to Claims 14 - 22 as being dependent upon a rejected base claim (Claim 13). In his Final Action, the Examiner stated that these claims would be allowable if rewritten into independent form, which they have been as new Claims 26-34 in Amendment B after Final Action.

Pursuant to Amendment B, responsive to Final Action and mailed 2006 September 5, these re-written Claims 26-34 have been confirmed as allowable in the Advisory Action mailed 2006 November 2.

Claim 12 is being appealed herewith.